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PRACTICE LIMITED TO  
MATTERS BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

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William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

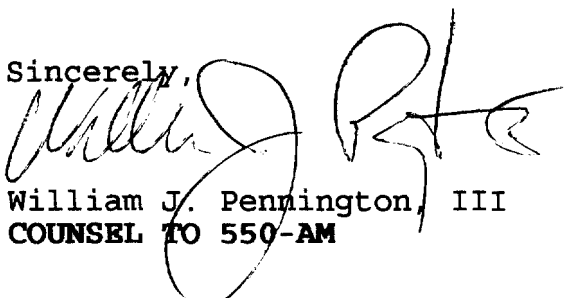
RE: Petition For Rule Making (East Brewton, Alabama and  
Navarre, Florida.)

Dear Mr. Caton:

Transmitted herewith, on behalf of 550-AM, is an original and  
four copies of "Petition For Rule Making" seeking certain changes  
in the FM Table of Allotments.

Should there be any questions regarding this material, please  
do not hesitate to contact the undersigned.

Sincerely,

  
William J. Pennington, III  
COUNSEL TO 550-AM

Enc.  
WJP/klm

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of )  
 )  
Amendment of Section 73.202(b) ) MM Docket No.  
Table of Allotments ) RM-  
FM Broadcast Stations )  
(East Brewton, Alabama and )  
Navarre, Florida) )  
  
To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**PETITION FOR RULE MAKING**

550-AM ("Petitioner"), permittee of Station WZEW(FM), East Brewton, Alabama, by their counsel, hereby requests the following changes to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules:

(1) Station WZEW(FM), East Brewton, Alabama proposes to substitute Channel 239C3 for Channel 239A and change community of license to Navarre, Florida to provide a first local service. These proposed changes are summarized as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
East Brewton, Alabama	239A	---
Navarre, Florida	---	239C3

In support hereof, the petitioner states the following:

## I. Technical Compliance

1. Unbuilt Station WZEW(FM) is authorized to operate on Channel 239A at East Brewton, Alabama. That channel would be upgraded to Channel 239C3 and provide a first local service to Navarre, Florida. As demonstrated in the attached Exhibit 1, Channel 239C3 can be allotted at coordinates North Latitude 30-26-52 and West Longitude 86-51-55 consistent with the Commission's spacing and principal community coverage requirements. These coordinates are located just north of the community of Navarre near an existing tower. The channel may also be allotted at the geographic coordinates which represent the proposed community of allotment. Exhibit 2 shows that from the proposed allocation coordinates the community of Navarre would receive 70 dBu service.

## II. Change in Community of License

2. Navarre is located in Santa Rosa County and is a thriving and growing community in need of a first local service.

3. In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989) recons. granted in part, 5 FCC Rcd 7094 (1990) (hereinafter "Community of License") the Commission stated that it would allow a station to change its community of license provided it met certain criteria: (1) the proposed channel must be mutually exclusive with the existing channel; (2) the new community must be preferred over the existing community under the

Commission's allotment priorities; and (3) the existing community may not be deprived of its only existing service.

4. The proposed use of Channel 239C3 at Navarre conflicts with the existing use of Channel 239A at East Brewton. See Exhibit 1. The proposed reallocation from East Brewton to Navarre will provide a first local service to a much larger community -- Navarre (18,000) than East Brewton (2,579). The community of East Brewton will not lose any existing service as Station WZEW(FM) is an unbuilt construction permit and has yet to provide that community with any service. The Commission has stated in the past that the loss of service from an unbuilt construction permit is only a potential loss and is not the same as the loss from a licensed service that has been operating on the air and which the public has an expectation will continue. Thus, the Commission's comparative criteria would favor a first local service to Navarre over the first local service to East Brewton.

5. In Community of License supra at 7096, the Commission stated that it was concerned with the potential migration of stations from underserved rural areas to well served urban areas. In making determination whether to award a first local service preference, the Commission has been guided by the criteria set forth in Faye and Richard Tuck, 3 FCC Rcd 5374 (1988).

6. Navarre is not located within an urbanized area. However,

from the proposed transmitter site, the predicted 70 dBu contour will reach portions of both the Pensacola and Fort Walton Beach, Florida urbanized areas. From the proposed allotment reference coordinates the 70 dBu contour does not cover over 50% of either the Pensacola or Fort Walton Beach Urbanized Areas. In any event, Navarre is an independent community. As stated in Tuck, supra (1988), "the size and proximity of the specified community to the central city and signal population coverage is pertinent but has less significance than evidence of independence." See also Headland, Al. and Chatahoochee, Florida, 10 FCC Rcd 10352 (1995); Canovanas, Puerto Rico, et al., 10 FCC Rcd 6673 (1995); Scotland Neck and Pinetops, North Carolina, 7 FCC Rcd 5113 (1992) recons. denied, 10 FCC Rcd 11066 (1995) and Hallie and Ladysmith, Wisconsin, 10 FCC Rcd 9257 (1995).

7. Navarre is a quickly growing community. Although the community is not incorporated, the Navarre Beach Visitors Center, which also represents the area's chamber of commerce, states that the population of the community is 18,000 persons with 26,000 persons using the services provided by the Navarre area. Navarre has all of the indicia of a community for allotment purposes including numerous stores, banks, churches, schools, fire department and local community and civic organizations. The community's population greatly expands during the summer months with the influx of tourists who visit the adjacent beaches on the Gulf of Mexico. All indications point to continued strong growth

for the community.

8. Although the reallocation of Channel 239 from East Brewton to Navarre will not result in a loss of existing service, as WZEW(FM) is but an unbuilt construction permit, the potential gain in population and area served would be substantial.

	<u>Population</u>	<u>Area</u>
Present - Channel 239A	27,257	2500 sq km
Proposed - Channel 239C3	311,213	4769 sq km

9. Thus, it is abundantly clear that Navarre is both a community for allotment purposes and independent of the nearby urbanized areas of Fort Walton Beach and Pensacola. The Petitioner hereby states that it will file an application to relocate its site and construct the facility to serve Navarre if authorized to do so.

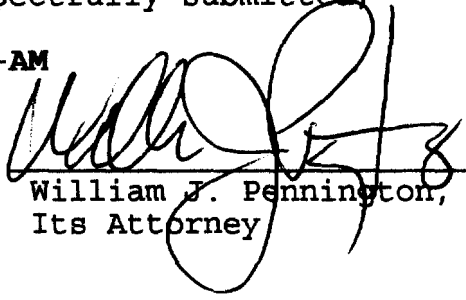
#### CONCLUSION

10. The public interest will be served by (1) upgrading and relocating Station WZEW(FM) in order to provide a first local service to Navarre, Florida while substantially increasing the number of persons and area served by the facility. These public interest benefits compel favorable action on this proposal. Accordingly, the Petitioner urges the Commission to grant this proposal.

Respectfully submitted,

550-AM

By:

  
William J. Pennington, III  
Its Attorney

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Dated: July 30, 1997

CHANNEL SPACING STUDY

NAVAREE FL

ALLOCATION POINT

REFERENCE

30 26 52 N

CLASS C3

86 51 55 W

----- CHANNEL 239 - 95.7 MHz -----

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
WZEW.C	239A	East Brewton	AL	348.1	88.98	142.0	-53.02 *
AP237	237A	Gulf Breeze	FL	251.6	20.33	42.0	-21.67 */1
AP237	237A	Gulf Breeze	FL	253.4	20.74	42.0	-21.26 */1
AP237	237A	Gulf Breeze	FL	251.9	21.00	42.0	-21.00 */1
WRKH	241C	Mobile	AL	286.1	96.36	96.0	0.36 <
WTVYFM	238C	Dothan	AL	59.8	177.63	176.0	1.63 <
WRBA	240C2	Springfield	FL	102.7	123.18	117.0	6.18
WSBZ	292A	Miramar Beach	FL	97.3	54.67	12.0	42.67
WKNU	292A	Brewton	AL	348.5	75.20	12.0	63.20
WKXN	240A	Greenville	AL	7.6	156.31	89.0	67.31
WJDBFM	238C3	Thomasville	AL	329.2	166.89	99.0	67.89

/1 CHANNEL 291A SUBSTITUTED FOR CHANNEL 237A AT GULF BREEZE, FLORIDA AS PER REPORT AND ORDER IN MM DOCKET NO. 83-493.



